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ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/626,191
Filing Date: July 28, 2000
Appellant(s): BEYER ET AL.

Dirk M. Beyer et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 05/05/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-5 and 8-9 stand or fall together and claims 10, 12-13, and 15 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

Technology Strategy, Inc. (www.grossprofit.com). The following references describe the different features of the service performed by Technology Strategy, Inc.:

i. Screenshots of www.grossprofit.com from archive.org, 03/02/2000

ii. Ackerman, "Looking Back to Fashion's Future", The Boston Globe, 10/07/1998

iii. Koloszyc, "Merchants Try Complex Math Tools to Improve Inventory Decisions", Stores Magazine, 11/1999.

(10) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 8-10, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Technology Strategy, Inc. (www.grossprofit.com).

The following references describe the different features of the service performed by Technology Strategy, Inc.:

i. Screenshots of www.grossprofit.com, which is Technology Strategy, Inc.'s homepage (referred to herein as references A);

ii. Article "Looking Back to Fashion's Future" by Ackerman from The Boston Globe (referred to herein as reference B);

iv. Article "Merchants Try Complex Math Tools to Improve Inventory Decisions" by Koloszyc from Stores Magazine (referred to herein as reference C).

As per claim 1, Technology Strategy, Inc. teaches a product demand forecasting system, comprising:

a profile extractor that generates a demand profile of a new product yet to be introduced based on demand profiles of similar products already introduced, wherein the profile extractor uses statistics and simulation on the demand profiles of similar products to obtain the demand profile of the new product (See reference A, page 3, sections 1 and 2, and page 4, sections 2 and 3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1, page 2, sections 1 and 5, and page 3, sections 2 and 3, wherein a profile extractor takes and stores historical demand data of similar products already introduced to market and stores this data as the baseline for the new product to be introduced to market);

a life-cycle demand predictor that generates a total life-cycle demand of the new product based on historical demand data of the similar products (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3,

sections 1-3, wherein a life-cycle demand predictor portion generates total life-cycle demand for the new product based on historical demand of similar products);

a forecast creator coupled to the profile extractor and the demand predictor to generate a life-cycle demand forecast for the new product based on the demand profile and total life-cycle demand of the new product (See reference A, page 3, section 2, and page 4, sections 2-3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1 and 3-8, and page 3, sections 1-5, wherein a forecast creator is coupled to the other portions to generate a life-cycle demand forecast for the new product based on the demand profile and the total life-cycle demand determined. The forecast creator is used to assess the life span of the product and pricing strategies associated with the product and is updated during this life span); and

a future demand extrapolation module coupled to the forecast creator to extrapolate the total life-cycle demand of a new product by calculating an average demand per time period of each of the similar products, associating each average demand per time period with a date that represents points of the similar products' life-cycle, and calculating an estimate of the average demand per time period at the date of the point of the life-cycle of the new product (See reference A, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 5, section 1, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1-3, page 2, sections 1 and 3-8, and page 3, sections 1-5, wherein historical demand data is obtained for the company's external database for relevant products similar to the new product. Future demand is estimated from values within a known range by assuming that the estimated values follow logically from the known values of demand. The run-rate of each of the similar products is

calculated, the run-rate associated with dates in the season of the products life-cycle. This life cycle is plotted as a curve in a graph of points and an estimate of the run-rate is estimated for a date at a point on this life-cycle curve).

However, while Technology Strategy, Inc. uses simulation, such as Monte Carlo simulations, and statistics to determine the demand profile, Technology Strategy, Inc. does not expressly disclose normalizing and averaging the demand profiles. Also, while Technology Strategy, Inc. discloses plotting points on a life-cycle graph for the life cycle of a product during a season and determining the timing of when to perform markdowns using this plot, it does not specifically disclose that one of these points is a midpoint with a specific date.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as mathematical manipulation in determining a demand profile for a new product. It is old and well known that simulations, such as Monte Carlo simulations, normalize and average historical data to generate values for uncertain future situations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to average and normalize the data of Technology Strategy, Inc. in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

Furthermore, Technology Strategy, Inc. is a tool used to predict the life-cycle demand of a product by looking at historical data of similar products. The tool plots forecasts of future demands and uses this plot (with points) to determine the timing of markdowns during the season of the product based on the product's run-rate. The tool assesses the product's performance on specific dates by comparing actual performance to predicted performance on the graph.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine a midpoint with an associated specific date for the product in order to more accurately reach the targeted goals of the season by establishing specific dates and performance which need to be met in order to reach the overall goal. See reference C, page 2 and page 3, section 4.

As per claim 2, Technology Strategy, Inc. discloses a product demand forecasting system, wherein the profile extractor further comprises:

a relevant product selection module that selects the similar products and extracts the historical demand data of the similar products from an external historical demand database (See reference A, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 5, section 1, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1, page 2, sections 1 and 5, and page 3, sections 2 and 3, wherein historical demand data is obtained for the company's external database for relevant products similar to the new product); and

a module that calculates the demand profile of each of the similar products to obtain the demand profile of the new product using simulation, statistics, and other mathematical manipulations (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3, sections 1-3, wherein data mining, genetic optimization, mathematical modeling, and Monte Carlo simulations are used to determine demand profiles).

However, Technology Strategy, Inc. does not expressly disclose a demand normalization and average profile determination module that normalizes the demand profile and averages all the normalized demand profiles.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as mathematical manipulation in determining a demand profile for a new product. It is old and well known that simulations, such as Monte Carlo simulations, and statistics normalize and average historical data to generate values for uncertain future situations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to average and normalize the data of Technology Strategy, Inc. in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

As per claim 3, Technology Strategy, Inc. discloses a product demand forecasting system, wherein the module calculates the demand profiles of the similar products for their lengths of life and total life-cycle demands (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3, sections 1-3).

However, Technology Strategy, Inc. does not expressly disclose a demand normalization and average profile determination module that normalizes the demand profiles of the similar products for their lengths of life and total life-cycle demands.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as mathematical manipulation in determining a demand profile for a new product. It is old and well known that simulations, such as Monte Carlo simulations, and statistics normalize

historical data to generate values for uncertain future situations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to normalize the data of Technology Strategy, Inc. in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

As per claim 4, Technology Strategy, Inc. teaches a product demand forecasting system wherein the module:

discretizing each profile at a pre-specified number of equidistant points between the beginning and end of the life-cycle of each demand profile (See reference A, page 4, section 3, reference B, page 1, section 1, page 2, section 4, page 3, section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1, 3-5, and 8, and page 3, sections 3-5, wherein the profile has discrete information at a pre-defined number of points on the life-cycle graph. The points are tested for example weekly against the numbers of the prediction and these equidistant points reveal if the prediction and the real situation are matching up); and

performing simulations and mathematical manipulations on the historical data and demand profiles of the similar products (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3, sections 1-3, wherein data mining, genetic optimization, mathematical modeling, and Monte Carlo simulations are used to determine demand profiles using the data of the similar products).

However, Technology Strategy, Inc. does not expressly disclose a demand normalization and average profile determination module that includes calculating the empirical mean and the

empirical standard deviation of all the profiles at these equidistant points to yield an averaged demand profile as the demand profile of the new product.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as statistical analysis to determine a demand profile for a product. It is old and well known that simulations, such as Monte Carlo simulations, and statistics normalize and analyze historical data to generate values for uncertain future situations. Empirical means and empirical standard deviations are also old and well-known in simulations and statistics. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to normalize and average the data of Technology Strategy, Inc. as well as determine the empirical mean and standard deviation in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

As per claim 5, Technology Strategy, Inc. teaches a product demand forecasting system wherein the module performs simulations and mathematical manipulations on the historical data and demand profiles (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3, sections 1-3, wherein data mining, genetic optimization, mathematical modeling, and Monte Carlo simulations are used to determine demand profiles).

However, Technology Strategy, Inc. does not expressly disclose a demand normalization and average profile determination module that estimates variance information of the normalized and averaged demand profiles.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as statistical analysis to determine a demand profile for a product. It is old and well known that simulations, such as Monte Carlo simulations, and statistics normalize and analyze historical data to generate values for uncertain future situations. Determining variance information is also old and well-known in simulations and statistics. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to normalize and average the data of Technology Strategy, Inc. as well as determine the variance in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

As per claim 8, Technology Strategy, Inc. discloses a product demand forecasting system further comprising an updating module that provides a revised new total life-cycle demand estimate using (1) the total life-cycle demand of the similar product, (2) the demand profile of the new product, and (3) past demand information, when available, of the new product (See reference A, page 3, section 2, and page 4, section 3, reference B, page 1, section 1, page 2, sections 3-4, page 3, section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1, 3-5, and 8, page 3, sections 3-5, wherein updating occurs).

As per claim 9, Technology Strategy, Inc. teaches a product demand forecasting system wherein the forecast creator is also coupled to the updating module such that if the forecast creator receives the revised new total life-cycle demand estimate, the forecast creator uses the revised new total life-cycle demand estimate instead of the total life-cycle demand from the life-cycle demand predictor to calculate the life-cycle demand forecast (See reference A, page 3, section 2, and page 4, section 3, reference B, page 1, section 1, page 2, sections 3-4, page 3,

section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1, 3-5, and 8, page 3, sections 3-5).

As per claim 10, Technology Strategy, Inc. discloses a method for providing a life-cycle product demand forecast for a new product yet to be introduced, comprising:

collecting historical demand data of similar products of the new product, wherein the similar product have already been introduced (See reference A, page 3, sections 1 and 2, and page 4, sections 2 and 3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1, page 2, sections 1 and 5, and page 3, sections 2 and 3, wherein historical demand data is found and stored for similar products already introduced to market);

generating demand profiles of the similar products based on the historical data of the similar products (See reference A, page 3, sections 1 and 2, and page 4, sections 2 and 3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1, page 2, sections 1 and 5, and page 3, sections 2 and 3, wherein the demand profiles of the similar products are generated using the stored historical data);

running simulations and statistics on the demand profiles of the similar products to obtain a demand profile of the new product (See reference A, page 3, sections 1 and 2, and page 4, sections 2 and 3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1, page 2, sections 1 and 5, and page 3, sections 2 and 3, wherein simulations and statistics are applied to the demand profiles of the similar products);

generating a total life-cycle demand of the new product based on the historical demand data of the similar products (See reference A, page 3, section 2, page 4, sections 1-3, and page 5, section 1, reference B, page 2, sections 1, 3, and 4, and page 3, section 1, and reference C, page

1, sections 1-3, page 2, sections 1, 3, and 4-8, and page 3, sections 1-3, which discloses generating a total life-cycle demand for the new product based on historical demand of similar products); and

generating the life-cycle product demand forecast for the new product based on the demand profile and total life-cycle demand of the new product (See reference A, page 3, section 2, and page 4, sections 2-3, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, sections 1-3, page 2, sections 1 and 3-8, and page 3, sections 1-5, which discloses generating a life-cycle product demand forecast for the new product based on the demand profile and the total life-cycle demand determined. The life span of the product is assessed in the context of product and pricing strategies associated with the product. These strategies are updated during this life span);

wherein generating the total life-cycle demand of the new product comprises calculating an average demand per time period of each of the similar products, associating each average demand per time period with a date that represents points of the similar products' life-cycle, and using the average demand profile per time period at a date of the life-cycle of each similar product to calculate an estimate of the average demand per time period at a point of the life-cycle of the new product (See reference A, page 3, sections 1 and 2, page 4, sections 2 and 3, and page 5, section 1, reference B, page 2, sections 3 and 4, and page 3, section 1, and reference C, page 1, section 1-3, page 2, sections 1 and 3-8, and page 3, sections 1-5, wherein historical demand data is obtained for the company's external database for relevant products similar to the new product. Future demand is estimated from values within a known range by assuming that the estimated values follow logically from the known values of demand. The run-rate of each of the similar

products is calculated, the run-rate associated with dates in the season of the products life-cycle. This life cycle is plotted as a curve in a graph of points and an estimate of the run-rate is estimated for a date at a point on this life-cycle curve).

However, while Technology Strategy, Inc. uses simulation, such as Monte Carlo simulations, and statistics to determine the demand profile, Technology Strategy, Inc. does not expressly disclose normalizing and averaging the demand profiles. Also, while Technology Strategy, Inc. discloses plotting points on a life-cycle graph for the life cycle of a product during a season and determining the timing of when to perform markdowns using this plot, it does not specifically disclose that one of these points is a midpoint with a specific date.

Technology Strategy, Inc. teaches using simulation, such as the Monte Carlo simulation, as well as mathematical manipulation in determining a demand profile for a new product. It is old and well known that simulations, such as Monte Carlo simulations, normalize and average historical data to generate values for uncertain future situations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to average and normalize the data of Technology Strategy, Inc. in order to more accurately predict future situations by using old and well-known simulation and statistical techniques that cause the more accurate prediction of values.

Furthermore, Technology Strategy, Inc. is a tool used to predict the life-cycle demand of a product by looking at historical data of similar products. The tool plots forecasts of future demands and uses this plot (with points) to determine the timing of markdowns during the season of the product based on the product's run-rate. The tool assesses the product's performance on specific dates by comparing actual performance to predicted performance on the graph

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine a midpoint with an associated specific date for the product in order to more accurately reach the targeted goals of the season by establishing specific dates and performance which need to be met in order to reach the overall goal. See reference C, page 2 and page 3, section 4.

As per claims 12 and 13, claims 12 and 13 are method versions of the system of claims 4 and 5, respectively. Therefore, claims 12 and 13 are rejected using the same art and rationale relied upon in the rejection of claims 4 and 5, respectively.

As per claim 15, Technology Strategy, Inc. teaches a method further comprising:

determining if past demand information of the new product is available (See reference A, page 3, section 2, and page 4, section 3, reference B, page 1, section 1, page 2, sections 3-4, page 3, section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1, 3-5, and 8, page 3, sections 3-5, wherein the availability of past data is considered);

if the past demand information of the new product is available, then providing a revised new total life-cycle demand estimate using (1) the total life-cycle demand of the similar product, (2) the demand profile of the new product, and (3) past demand information, when available, of the new product (See reference A, page 3, section 2, and page 4, section 3, reference B, page 1, section 1, page 2, sections 3-4, page 3, section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1, 3-5, and 8, page 3, sections 3-5, wherein updating occurs when the past demand information is available).

(11) Response to Argument

In the Appeal Brief, Appellant provides four main arguments:

1) The examiner has incorrectly asserted that normalizing and averaging demand profiles would have been obvious in view of the Technology Strategy, Inc. (TSI) references and further is wrong in asserting that it is old and well known that simulations, such as Monte Carlo simulations, normalize and average historical data to generate values for uncertain future situations or that simulations (such as Monte Carlo) are inherently associated with normalizing and averaging.

2) The selling cycle for clothes is known and predetermined in TSI and therefore there is no need to "normalize and average demand profiles".

3) The examiner has incorrectly asserted that an average per time period with a date that represents a midpoint of a life-cycle would have been obvious in view of the TSI references and that the TSI references do not provide any explanation of the graph icons' significance.

4) The TSI reference does not teach or suggest a motivation for the Applicant's claimed "midpoint of a life-cycle" feature and that the TSI system would not benefit from the mid-point feature because calculating a single mid-point rather than multiple points decreases accuracy in favor of simplicity.

In response to argument 1), Examiner respectfully disagrees. Examiner stated in the rejection that the prior art uses statistics and simulation on the demand profiles of similar products to obtain the demand profile of the new product. Examiner asserted that Technology Strategy, Inc. taught using simulation, such as the Monte Carlo simulation, as well as mathematical manipulation in determining a demand profile for a new product and that it is old and well known that simulations, **such as** Monte Carlo simulations, normalize and average

historical data to generate values for uncertain future situations. Therefore, Monte Carlo simulation is an example of, **and not a limitation of,** the simulation employed by the tool. See reference C, page 2, sections 6-8, which further discuss Monte Carlo simulation. It is known in the art that Monte Carlo simulations occur when Monte Carlo techniques are applied to simulation, which involves generating some random observations from the function under consideration and then using the average of the random observations to estimate a mean. Furthermore, Mendenhall et al., pages 29-46 and 696-710, discloses modeling and using this modeling for normalizing and averaging data sets. Therefore, Examiner maintains that it would be obvious to combine these features with the simulations in the teachings of Technology Strategy, Inc.

Examiner did not state that simulations are inherently associated with normalizing and averaging, but rather that it was old and well known at the time of the invention that simulations, such as Monte Carlo simulations, normalize and average historical data to generate values for uncertain future situations. Therefore, the examiner did not assert an inherent association, but rather that it was obvious to use well known features of simulation (i.e. normalizing and average data), thus the basis for the § 103 rejection set forth above.

In response to argument 2), Examiner respectfully disagrees. Examiner points out that the claimed invention is a demand forecasting tool directed towards predicting the life-cycle demand of a product. Therefore, the life-cycle demand and not the selling cycle is what is pertinent to the limitations of the claims. Examiner admits that selling cycles such as seasons (i.e. fall, summer, spring) are known to clothes sellers, however how much will sell (i.e. the life-cycle and life-cycle demand of the product) is unknown, thus the utility and purpose of the tool

of TSI. TSI manages a product life cycle by first creating a pre-season plan (i.e. how much inventory, when to perform markdowns) for the product and then editing the plan during the season using actual sales data to determine markdowns and reallocation of inventory. See at least reference A, page 1, page 3, sections 1-2, and page 4. Therefore, the prior art is mainly for forecasting demand to plan inventory and the life-cycle of a product and determine inventory risk for products since products, such as fashion items, do not have a known and predetermined life-cycle demand. See at least reference A, page 3, sections 1-3, and page 4, sections 1-3, and reference B, page 3, section 1.

In response to argument 3), Examiner first points out that she relied on Technology Strategy, Inc. to teach plotting points for the life cycle of a product during a season and determining the timing of when to perform markdowns using this plot. Technology Strategy, Inc. predicts the life-cycle demand of a new product by looking at historical data of similar products. The tool plots forecasts of future demands and uses this plot (with time points) to determine the timing of markdowns during the season of the product based on the product's run-rate. The tool assesses the product's performance on specific dates by comparing actual performance to predicted performance. While the prior art does not provide a picture of the graph, the concept is discussed in at least reference A, page 4, section 3, reference B, page 2, section 4, and page 3, section 1, and reference C, page 1, sections 1 and 3, page 2, sections 1 and 6-8, and page 3, sections 2-5, which discusses forecasting the demand curve and the life cycle curves. Examiner points out that the definition of midpoint is a point of a line segment or curvilinear arc that divides it into two parts of the same length, a position midway between two extremes. The user of the TSI tool knows the start data and the end date of the product run. The

user furthermore has calculated points between the start date and end date of the product run. Therefore, while Technology Strategy, Inc. does not specifically disclose that one of these dated check points is a midpoint, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine a midpoint with an associated specific date for the product in order to more accurately reach the targeted goals of the season.

In response to argument 4), Examiner respectfully disagrees. The claimed "mid-point" of the Applicant is "to associate an average demand per time period with a date that represents a mid-point of the life-cycle" and "calculating an estimate of the average demand per time period at the date of the mid-point of the life-cycle". Therefore, the mid-point is merely a date in the life-cycle that is associated with a regular and expected demand. As discussed above with regards to argument 3), the user of the TSI tool knows the start date and the end date of the product run and has calculated expected demand values at points between the start date and end date so as to perform markdowns, inventory shifts, and assess product performance on specific dates by comparing actual performance to predicted performance. The TSI tool performs this "during season" assessment in order to reach the overall goal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine a mid-point with an associated specific date (along with the other date points of TSI) in order to more accurately reach the targeted goals of the season by establishing specific dates and performance which need to be met in order to reach the overall goal. See reference C, page 2 and page 3, section 4.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
Beth Van Doren
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July 20, 2004

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